

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(1) CRR No.1476 of 2017 (O&M).
Decided on:-19.09.2017.

Ishwar Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(2) CRR No.1595 of 2017 (O&M).

Ram Kumar.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(3) CRR No.1155 of 2017 (O&M).

Om Parkash.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. S.S. Dinarpur, Advocate
for the petitioner in CRR No.1476 of 2017.

Mr. Balwinder Singh Chahal, Advocate
for the petitioner in CRR No.1595 of 2017.

Mr. Randeep S. Dhull, Advocate
for the petitioner in CRR No.1155 of 2017.

Mr. Manish Bansal, Deputy Advocate General, Haryana
for the respondent-State.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned three criminal revision petitions as the same have arisen from a common FIR No.94 dated 02.05.2008 under Sections 405, 407, 408, 409, 419, 420, 471, 474 and 120-B read with Section 34 IPC registered at Police Station City Narwana, District Jind. Moreover, all the petitions have been filed against judgment dated 08.03.2017 passed by learned Additional Sessions Judge, Jind whereby appeal filed by the petitioners against the judgment of conviction dated 03.12.2013 and order of sentence dated 05.12.2013 passed by learned Sub-Divisional Judicial Magistrate, Narwana, was dismissed with a modification that conviction of petitioner Ram Kumar under Section 409 IPC was set aside.

However, for convenience and clarity, the detailed order is being passed in ***CRR No.1476 of 2017*** titled as ***Ishwar Singh Versus State of Haryana.***

Briefly stated, complainant Ram Kumar son of Bhobal had filed a complaint before the Illaqa Magistrate with the averments he was owner in possession of 1/5th share of the agricultural land measuring 10 Kanals comprised in Killa No.344//3/1 and 334//23 situated at Uklana Road, Narwana. He had already sold his share to Roshan Lal, Raj Kumar, Raghbiro Devi and Vidya Devi in equal shares vide sale deed No.0963 dated 01.07.1986 and thereafter, he had no concern with the same. However, accused Ishwar Singh, Ram Kumar Lamberdar and Satish Kumar in connivance with each other and some other person, with a view to damage his reputation and for the purpose of cheating, had impersonated some other

person in his place and fraudulently got executed sale deed No.4766 dated 21.01.2008 with regard to the said land in favour of accused Ishwar Singh. However, the complainant had never got registered the subsequent sale deed by putting in appearance before Sub-Registrar, Narwana. Accused Ram Kumar being Lambardar had taken undue benefit of his post and wrongly identified the said imposter as the complainant. Accused Satish also wrongly identified the complainant and played fraud upon him.

On the basis of aforesaid sale deed No.4766 dated 21.01.2008, accused Ishwar Singh, by getting its mutation sanctioned, had made an attempt to take forcible possession from its original owners namely, Roshan Lal and others to whom the complainant had already sold the land in the year 1988.

On the basis of aforesaid complaint, learned Illaqa Magistrate, while exercising the powers under Section 156(3) Cr.P.C. got the FIR in question registered against the accused.

Statements of the witnesses were recorded and after completion of investigation, Challan under Section 173 Cr.P.C. was presented in the Court. Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused free of costs.

Finding a prima-facie case against the accused, they were charge-sheeted for the commission of offence punishable under Sections 409, 419, 420, 467 and 471 read with section 120-B of IPC by the learned trial Court vide order dated 18.05.2009 to which they did not plead guilty and claimed trial. However, during the trial, accused Satish failed to appear before

the trial Court and he was ultimately declared as proclaimed offender by the trial Court vide order dated 30.05.2012.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 03.12.2013, held the petitioners guilty and convicted for commission of offence under Sections 419, 420, 467 and 471 read with Section 120-B IPC. Besides this, petitioner-accused Ram Kumar was also held guilty and convicted for commission of offence under Section 409 read with Section 120-B IPC. Vide separate order dated 05.12.2013 passed by the trial Court, the petitioners were sentenced as under:

<u>Offence</u>	<u>Sentence</u>
Section 409 IPC (convict Ram Kumar only)	Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for six months.
Section 419/120-B IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.
Section 420/120-B IPC	Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo RI for six months each.
Section 467/120-B IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.
Section 471/120-B IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for one month each.

However, it was ordered that all the substantive sentences shall run concurrently.

Aggrieved against the aforementioned judgment and order passed by learned trial Court, the petitioners had preferred an appeal before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Jind vide judgment dated 08.03.2017 with a modification that conviction of petitioner Ram Kumar under Section 409 IPC was set aside.

It is in these circumstances the petitioners have approached this Court by filing the present revision petitions.

At the outset, learned counsel for the petitioners have not challenged conviction of the petitioners and have confined their respective arguments qua the quantum of sentence only. It has been submitted that as against the awarded sentence of three years, petitioner Ishwar Singh has already undergone imprisonment for 9 months and 21 days including remission of 1 month and 10 days. Similarly, petitioner Ram Kumar has undergone imprisonment for 7 months and 12 days including remission of 6 days, whereas petitioner Om Parkash has undergone imprisonment for 9 months and 23 days including remission of 6 days.

Learned counsel for the petitioners have further contended that all the petitioners are first time offenders and there is no other case pending against them. They are poor persons and they have to look after their respective families being the sole bread earners. The petitioners have been suffering the agony of criminal proceedings since 02.05.2008, i.e. the date when the FIR in question was registered against them. Thus, they have prayed for reduction of the sentence of petitioners to the period already undergone by them.

Learned State counsel, on the other hand, has filed the custody certificates of the petitioners in the Court today, which are taken on record. He has not disputed the custody of the petitioners, but opposed the plea of taking liberal view, as raised by learned counsel for the petitioners.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioners guilty for commission of offence under Sections 419, 420, 467 and 471 read with Section 120-B IPC. The appellate Court has also rightly dismissed their appeal with a modification that conviction of petitioner Ram Kumar under Section 409 IPC was set aside. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners have not assailed the judgments of conviction and have, rather, restricted their respective arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as per the custody certificates, petitioner Ishwar Singh has already undergone imprisonment for 9 months and 21 days including remission of 1 month and 10 days. Similarly, petitioner Ram Kumar has undergone imprisonment for 7 months and 12 days including remission of 6 days, whereas petitioner Om Parkash has undergone imprisonment for 9 months and 23 days including remission of 6 days. The petitioners have been suffering the agony of criminal

proceedings for the last more than 9 years as the FIR in question was registered against them on 02.05.2008.

Therefore, taking into account the protracted trial, antecedents of the petitioners and the period of custody of the petitioners, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of Rs.10,000/- each as fine in addition to the fine already imposed upon by the trial Court.

Ordered accordingly.

Perusal of the order of sentence dated 05.12.2013 passed by learned trial Court reveals that the fine as imposed by the trial Court has already been paid by the petitioners. Therefore, they be released forthwith, if not required in any other case, on their depositing aforementioned fine of Rs.10,000/- each, as imposed by this Court.

It is made clear that in case the petitioners fail to deposit the fine of Rs.10,000/- each, as imposed by this Court, they shall be liable to undergo the remaining part of their respective sentence.

With the aforesaid modification in the order of sentence, the present revision petitions stand dismissed.

Photocopy of this order be placed on the files of other connected cases.

September 19, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No